

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

D. LAWRENCE OLSTAD,

Plaintiff,

v.

U.S. NATIONAL BANK, N.A.; QUALITY
LOAN SERVICE CORP OF WASHINGTON,
a Washington Corporation; CALIBER HOME
LOANS, INC., a Delaware Corporation,
Defendants.

No.:

NOTICE OF REMOVAL

TO: Clerk, United States District Court for the Western District of Washington at Tacoma

A. REMOVAL OF STATE COURT ACTION

Defendants U.S. Bank Trust, N.A. (“U.S. Bank”) and Caliber Home Loans, Inc. (“Caliber”) (collectively “Defendants”) are defendants in a civil action filed under Cowlitz County Superior Court No. 16-2-00152-2. Plaintiff’s complaint is attached hereto as **Exhibit A**. Defendants hereby remove the civil action to federal court. All defendants join in this removal.

B. FEDERAL QUESTION

1. The Federal Court Has Original Jurisdiction Over Subject Matter.

Plaintiff alleges that Defendants have violated federal rules governing mortgage backed securities and federal RICO law. The federal court therefore has original jurisdiction over the subject matter under 28 USC 1331.

2. Propriety of Removal

This action is removable under 28 USC 1441 because the federal court would have had

1 original jurisdiction over Plaintiff's claims had Plaintiff elected to file the action initially in
2 federal court. This U.S. District Court for Western Washington is the district embracing the
3 place where the state court action is pending, and is therefore the appropriate court for removal
4 pursuant to 28 USC 1441(a).

5 **C. DIVERSITY**

6 Defendants remove this action for the additional reason that complete diversity exists
7 under 28 USC 1332 because no defendant is a citizen of the state in which plaintiff is a citizen.
8 Plaintiff is a citizen of Oregon; Caliber is a citizen of Delaware and Texas; and U.S. Bank Trust
9 is a citizen of Delaware.

11 **1. Plaintiff Is A Citizen of Oregon**

12 Plaintiff D. Lawrence Olstad is citizen of Oregon. Mr. Olstad's mailing address of record
13 is in Portland, OR, and a LEXIS public records search by Defendants' counsel indicates Mr.
14 Olstad resides at the Portland address. In fact, all addresses of Mr. Olstad (current and former)
15 from the LEXIS search were in Oregon.

17 **2. Caliber is a Citizen of Delaware and Texas**

18 For diversity purposes, a corporation's citizenship includes the state of its principal place
19 of business and the state of incorporation. 28 USC 1332(c)(1): *Hertz Corp. v. Friend*, 130 S.Ct.
20 1181, 1183 (2010). Defendant Caliber is a corporation incorporated under the laws of the State
21 of Delaware with its principal place of business in the State of Texas.

22 **3. U.S. Bank is a Citizen of Delaware**

23 Under 28 USC 1348, as interpreted by *Wachovia Bank v. Schmidt*, 546 U.S. 303, 307
24 (2006), "[t]he State in which the main office is located qualifies as the bank's "home State" under
25 banking laws. Defendant U.S. Bank Trust is a national banking association whose Articles of
26 Association designate the location of its main office as Wilmington, Delaware.

27 **4. Defendant Quality Loan Service Corp. of Washington ("Quality") is to be**

Ignored for Purposes of Diversity Jurisdiction

Quality should be ignored for purposes of diversity jurisdiction because it is a nominal party. Quality and the Plaintiff have executed a Stipulation of Nonparticipation (copy attached hereto as **Exhibit B**), which provides Quality is not required to participate in the litigation, and no money damages will be sought against Quality. Accordingly, Quality does not have an actionable relationship with Plaintiff. Quality should therefore be ignored for purposes of diversity because Quality is a nominal defendant.

5. Amount in Controversy

Generally, '[t]he amount in controversy is determined from the allegations or prayer of the complaint.' *St. Paul Mercy Indem. Co. v. Red Cab Co.*, 303 U.S. 283, 289 (1938). In actions seeking declaratory or injunctive relief, it is well established that the amount in controversy is measured by the value of the object of the litigation. *Cohn v. Petsmart, Inc.*, 281 F.3d 837, 840 (9th Cir. 2002). This action concerns a mortgage loan secured by real property in Cowlitz County. Plaintiff alleges a number of claims for relief related to enforcement of the mortgage loan against the property, including an injunction against foreclosure. The balance of the mortgage loan is approximately \$300,000.00¹. The county's assessed value of the property in 2015 was \$255,060². Thus, the object of the litigation is in excess of \$75,000.00

D. REMOVAL IS TIMELY

On February 18, 2016, Defendants first received a copy of the complaint. This notice is filed within thirty days of receipt, and is timely under 28 USC 1446(b)(1).

E. STATE COURT COMPLAINT AND OTHER PLEADINGS

Attached to this notice is a true and correct copy of the complaint which Plaintiff filed in

¹ See Complaint Exhibit 2

² [http://www.cowlitzinfo.net/applications/cowlitzassessorparcelsearch/\(S\(kdawe0vq5z1ay0bxwvmgwney\)\)/ParcelDataCP.aspx?Account=R016147&Public=Y&Parcel=WK3104008](http://www.cowlitzinfo.net/applications/cowlitzassessorparcelsearch/(S(kdawe0vq5z1ay0bxwvmgwney))/ParcelDataCP.aspx?Account=R016147&Public=Y&Parcel=WK3104008)

1 the state court. All other pleadings filed in the action are attached with the Verification of State
2 Court Records.

3 **F. INTRADISTRICT ASSIGNMENT**

4 Defendants choose to remove this action to the Tacoma Division because this action is
5 being removed from the Superior Court in Cowlitz County. Defendants are unaware of any basis
6 to reassign the case to the Seattle Division.

7 Dated: March 2, 2016

8 MCCARTHY & HOLTHUS, LLP

9
10 /s/ Joseph Ward McIntosh

11 Joseph Ward McIntosh, WSBA #39470

12 Attorney for Defendants
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